Remarks

Please change the correspondence address as noted in the new power of attorney.

All previous claims have been cancelled. New claims 46-50 have been added to more clearly define the present device over the prior art. The present device creates a bottom of a pen for a pre-existing non-human animal pen. None of the cited prior creates a bottom for a pre-existing pen. Previously cited prior art Stevens and Lacki are both pens that have a wall and floor all as part of a single system. The floors of Stevens and Lacki are both permanently attached to the walls of the pen. The present device can be put on and then removed when not in use. Further, as noted in the dependant claims, the pen wall of the present device are substantially rigid, unlike the walls of Stevens and Lacki, which both have mesh walls.

Independent claim 49 is directed to the device of FIG. 5, which examiner had previously indicated in a phone interview would be allowable.

LAW OF OBVIOUSNESS

It is well known that most inventions are composed of elements that *per se* are old and well known. That however, does not make an invention "obvious" under 35 U.S.C. 103. The Examiner's attention is respectfully drawn to, for example, *ACS Hospital Systems, Inc. v. Montefiore Hospital et al.*, 221 USPQ 929, wherein the CCPA held that "Obviousness cannot be established by combining teachings of prior art to produce claimed combination, absent some teaching or suggestion supporting combination; teachings of references can be combined only if there is some suggestion or incentive to do so, under 35 U.S.C. 103."

Also, as stated in *W.L. Gore & Associates, Inc. v. Garlock, Inc.* 721 F2d 1540, 220 USPQ 303 (Fed. Cir. 1983):

> [t]o imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.

Finally, even if the constituents of an invention may be old, if the result would not have been obvious at the time of invention, then the result may be patentable. *Reiner v. I. Leon Co.*, 285 F2d 501, 128 USPQ 25, (1960 CA2 NY).

Applicant respectfully requests the Examiner to pass this application to allowance. If the Examiner feels that phone interview would be helpful in moving this case toward allowance, the Examiner is invited to call the signatory.

Respectfully submitted,

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